

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

RAJESH B. SHAH

VS .

ILLINOIS BELL TELEPHONE COMPANY

Complaint as to classification of)
residential into business line by)
a utility company in Chicago,)
Illinois.)

Chicago, Illinois
October 16, 2003

Met pursuant to notice at 10:00 a.m.

BEFORE :

MS. EVE MORAN, Administrative Law Judge.

APPEARANCES:

MR. RAJESH B. SHAH
107 West Van Buren, No. 215
P.O. Box A3024
Chicago, Illinois 60605
Appearing pro se;

MR. JAMES HUTTENHOWER
225 West Randolph Street, Suite 25-D
Chicago, Illinois 60606
Appearing for the Respondent.

SULLIVAN REPORTING COMPANY, by
Tracy L. Ross, CSR

1 JUDGE MORAN: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket
3 No. 03-0494. This is Rajesh B. Shah versus
4 Illinois Bell Telephone Company. It is a
5 complaint as to classification of residential
6 into business line by a utility company in
7 Chicago, Illinois.

8 May I have the appearances for the
9 record, please.

10 MR. HUTTENHOWER: James Huttenhower,
11 H-u-t-t-e-n-h-o-w-e-r, appearing on behalf of
12 Illinois Bell Telephone, 225 West Randolph
13 Street, Suite 25-D, Chicago 60606.

14 JUDGE MORAN: And your telephone number?

15 MR. HUTTENHOWER: (312)727-1444.

16 MR. RAJESH SHAH: Myself, Rajesh B. Shah,
17 R-a-j-e-s-h, middle initial B, last name is
18 S-h-a-h, appearing for self. Mailing address is
19 P.O. Box A3024, Chicago, Illinois 60690. And
20 physical address is 107 West Van Buren, No. 215,
21 Chicago, Illinois 60605. My telephone number is
22 (312)789-9500, appearing for self, pro se.

1 JUDGE MORAN: And can the parties inform me as
2 to what has occurred since the last status
3 conference.

4 MR. HUTTENHOWER: SBC Illinois, shortly after
5 the status, had sent Mr. Shah a written request
6 for some information. The parties have since
7 exchanged some letters about the scope of the
8 request and why SBC wanted the information.

9 Most recently, I received a letter from
10 Mr. Shah towards the end of last week to which I
11 responded at the beginning of this week. In
12 Mr. Shah's letter of last week, he also asked for
13 some information from SBC Illinois, essentially,
14 sort of, records from the time he established his
15 service in 2000 and I said I would look to see if
16 we still had that information and provide it to
17 him if we did. I have a little bit of
18 information with me now I can give to him and I
19 expect, probably later today, to get a fax with
20 the other information, to the extent that we have
21 it.

22 JUDGE MORAN: Okay. So in other words, the

1 parties are still continuing with their
2 discovery --

3 MR. RAJESH SHAH: That's correct, yeah.

4 JUDGE MORAN: -- discovery is not finished?

5 MR. RAJESH SHAH: Yeah, we are and -- as a
6 matter of fact, information requested by SBC on
7 that, I do not have any hesitancy providing all
8 those answers, but my interest was to go in
9 chronological level and that's why I requested
10 that -- if I can have some information on how
11 that service is established. On that basis. We
12 can go on a chronological basis, why, what and
13 whatever it is.

14 He provided a copy of my Web site. I
15 mean, for SBC and -- requesting that -- what is
16 this business about, which is the physical
17 address of 107 West Van Buren, No. 215; but the
18 reason for me to request a connection -- I mean
19 establishment is because those things appear way
20 after my service was established. It's something
21 which I learned HTML and I designed it on my own.

22 The reason -- the way I got it --

1 JUDGE MORAN: Okay. I don't need to go into
2 the details unless --

3 MR. RAJESH SHAH: Oh, I see.

4 JUDGE MORAN: -- there's a problem between the
5 two of you --

6 MR. RAJESH SHAH: Yeah, we still have to talk
7 it out.

8 JUDGE MORAN: -- because I don't want to hear
9 anything that may not be evidence --

10 MR. RAJESH SHAH: Yeah.

11 JUDGE MORAN: -- in the case.

12 MR. RAJESH SHAH: Yeah. All right.

13 JUDGE MORAN: You understand that?

14 MR. RAJESH SHAH: Sure.

15 JUDGE MORAN: So what is the party's pleasure
16 now? I assume you're not ready to go to hearing
17 today?

18 MR. HUTTENHOWER: We're not ready to go to
19 hearing today. I guess -- I'm not sure -- I did
20 not feel that we were in a position to file a
21 motion to compel about discovery because Mr. Shah
22 has said in writing he's happy to provide it; but

1 on the other hand, he said that he thinks it's --
2 essentially, I think it's premature, so I don't
3 know where that puts me in terms of whether I'm
4 in the right posture to file a motion to compel.

5 JUDGE MORAN: Okay.

6 MR. RAJESH SHAH: No. He -- you -- he have
7 all valid questions, which SBC needs to justify
8 it. His questions are correct, but, again, if
9 you go on order, then that question also will get
10 more weight on validity, you know, because, see,
11 if I skip this area in between the history --

12 JUDGE MORAN: Well, if you can answer and if
13 you have no objection to answering his
14 questions --

15 MR. RAJESH SHAH: I do not.

16 JUDGE MORAN: -- why don't you do that and
17 then -- that doesn't mean that you're not going
18 to be able to present your position on any of
19 this evidence, should it come in.

20 MR. RAJESH SHAH: Sure.

21 JUDGE MORAN: You understand that?

22 MR. RAJESH SHAH: Sure. Sure.

1 JUDGE MORAN: But just to -- you know,
2 everything that's discoverable doesn't come in,
3 necessarily, as evidence. It helps formulate a
4 theory or a theme of the case.

5 MR. RAJESH SHAH: Sure.

6 JUDGE MORAN: And the more information,
7 obviously, people have, the better they are able
8 to prepare --

9 MR. RAJESH SHAH: Sure.

10 JUDGE MORAN: -- and I think that goes both
11 ways.

12 So with that in mind, if it is
13 possible --

14 MR. RAJESH SHAH: I will definitely, then,
15 respond to him. And not only that, when I
16 respond to him, I will probably add some of the
17 fact on that which -- now that we are discussing
18 it, again, there are certain things which
19 happened prior to that that could still be
20 considered. I'm not going strictly on those
21 things which are current or whatever, yeah, so if
22 there are any historical background which we go

1 through, then that also has some weight on it.

2 JUDGE MORAN: Okay. So you're saying that
3 there's a historical content for certain
4 allegations that you're making now?

5 MR. RAJESH SHAH: Yeah. And, at present, I
6 mean, I personally feel that there is substantial
7 reason for not doing -- for my justifying or --
8 because the way SBC has defined the residential
9 and business line is not in the -- that overlaps
10 a lot of interest of consumers.

11 It strictly defines into two categories,
12 sometimes it becomes very difficult to find for a
13 consumer, and also for SBC itself; because SBC
14 wrote those definitions and Illinois Commerce
15 accepted it. They don't say it's right or wrong.
16 Illinois Commerce do not say it. They accepted
17 what they wrote.

18 So, again, there is something in their
19 definition itself which limits in categorizing
20 whether it's a residential or whether it is a
21 business, how to consider it and I would say that
22 if SBC have any issues on that, why don't they

1 listen to consumer first that, Hey, I want it,
2 and then go after proving or whatever that no,
3 it's not, then I can substantiate it.

4 JUDGE MORAN: But you're not here today -- and
5 I do want to make this clear -- on behalf of all
6 consumers. You can only bring an action here on
7 behalf of your ownself.

8 MR. RAJESH SHAH: Oh, yeah. Okay.

9 JUDGE MORAN: You need to keep that in mind.

10 MR. RAJESH SHAH: Okay. Sure.

11 JUDGE MORAN: And if those are questions of
12 law that you're raising, more than questions of
13 fact, then you will have to be prepared to brief
14 and defend that position.

15 MR. RAJESH SHAH: An independent position,
16 okay. We'll do that.

17 JUDGE MORAN: Okay. So, at this point, I
18 think we have agreement that Mr. Shah will be
19 responding in full --

20 MR. RAJESH SHAH: Yes, ma'am.

21 JUDGE MORAN: -- to --

22 MR. RAJESH SHAH: Yes.

1 JUDGE MORAN: -- Mr. Huttenhower's data
2 requests.

3 And has Mr. Huttenhower responded to
4 your requests or is he --

5 MR. RAJESH SHAH: He has some information.

6 JUDGE MORAN: -- he has some right now; right?

7 MR. RAJESH SHAH: He'll probably have some
8 more, too. I'll have more questions on that too,
9 so...

10 JUDGE MORAN: So how much more time do the
11 parties need to complete discovery so that we can
12 set this for hearing? And try and be very
13 careful in setting the next date because I don't
14 want to waste time on status hearings, unless we
15 really have an issue, you understand?

16 MR. RAJESH SHAH: Sure. Sure.

17 JUDGE MORAN: I want to be realistic. That's
18 the word I'm looking for, sorry.

19 MR. HUTTENHOWER: As far as the information
20 Mr. Shah has currently requested of SBC, I either
21 have it in hand or we'll have it in hand shortly.
22 I'd hope to get it before I walked over here.

1 JUDGE MORAN: All right.

2 MR. HUTTENHOWER: But I don't know with him,
3 suggesting at least, that he might want some
4 additional information, what -- whether that's
5 stuff I already -- also have or whether that's
6 stuff I need to go dig up.

7 JUDGE MORAN: Okay. Within 7 days of you
8 completing the discovery that's outstanding now,
9 I'm going to require Mr. Shah to put in his
10 further data requests.

11 MR. RAJESH SHAH: Yes, yes. Yeah. Now, for
12 setting up a next date, I would say -- is there
13 any possibility of setting up something by mail
14 with you requesting it and not setting up a date
15 today? The reason is, your time is valuable and
16 unless and until we have sufficient --

17 JUDGE MORAN: Sure.

18 MR. RAJESH SHAH: -- recoveries -- data, we do
19 not want to take your time, you know. So what
20 we -- I personally feel that -- unless and until
21 we reach a satisfactory comfort level to meet --
22 come to you either with -- in other words, we can

1 do it out of court also and then we can say that,
2 okay, we are ready to do this.

3 JUDGE MORAN: Oh, sure. Sure. What I want
4 to -- set a date enough in advance to allow you
5 to do all this.

6 MR. RAJESH SHAH: I see. Okay. You want to
7 limit --

8 JUDGE MORAN: But also --

9 MR. RAJESH: -- set up a deadline.

10 JUDGE MORAN: Set up a date because we have to
11 remember that we are on a schedule here.

12 MR. RAJESH SHAH: Oh, okay.

13 JUDGE MORAN: I believe there's a one-year.

14 MR. HUTTENHOWER: There's a one-year and I get
15 the sense from some of your colleagues that it
16 almost seems now you guys have to -- any time you
17 have a hearing, an end result of the hearing has
18 to be another date that can be inputted into --

19 JUDGE MORAN: Well, that's the other thing,
20 the Clerk's Office does not favor me putting
21 continued generally into the thing. They want a
22 definite date. And, of course, that date is

1 subject -- you know, you guys can call me -- you
2 gentlemen can call me and say, you know, we want
3 to change this date to another date or, you know,
4 file a motion for -- a joint motion for a
5 continuance.

6 MR. HUTTENHOWER: Do you have an e-mail
7 address?

8 MR. RAJESH SHAH: Yes, I do.

9 MR. HUTTENHOWER: That's another way that --

10 MR. RAJESH SHAH: Definitely.

11 MR. HUTTENHOWER: -- parties frequently
12 communicate.

13 JUDGE MORAN: Oh, yeah. Absolutely.
14 Absolutely.

15 MR. RAJESH SHAH: My e-mail address is easy to
16 remember. My last name, which is Shah, at --
17 again, Shah, minus USA.com. Shah at Shah, minus
18 USA.com.

19 JUDGE MORAN: Minus, the word minus?

20 MR. RAJESH SHAH: Like underscore. Hyphen,
21 hyphen.

22 MR. HUTTENHOWER: Hyphen.

1 MR. RAJESH SHAH: I say, minus, because
2 sometimes people do underscore instead.

3 JUDGE MORAN: Oh, I see.

4 MR. RAJESH SHAH: Because it doesn't --

5 JUDGE MORAN: Shah at Shah --

6 MR. RAJESH SHAH: S-h-a-h at S-h-a-h, hyphen,
7 USA.com.

8 JUDGE MORAN: And you have provided Mr. Shah
9 with your e-mail address?

10 MR. RAJESH SHAH: Yeah. It is on the letter.

11 JUDGE MORAN: On the service list, and I
12 assume that mine is there also?

13 MR. RAJESH SHAH: Yeah -- no, yours is not on
14 here. I think it's a good idea to write it.

15 JUDGE MORAN: You can have mine also.

16 MR. RAJESH SHAH: Yeah. Sure.

17 JUDGE MORAN: Although, when you do
18 communicate with me on e-mails I prefer that it
19 be done jointly in these cases.

20 MR. RAJESH SHAH: CC?

21 JUDGE MORAN: Yeah. Right. So is that
22 there's no ex-party communication of any sort.

1 MR. RAJESH SHAH: Yeah. As a CC, yeah.

2 JUDGE MORAN: EMoran, E-M-o-r-a-n, at

3 ICC.state.IL.U.S.

4 MR. RAJESH SHAH: Okay. Thank you. And I

5 think I also, if I can have -- well, as long as I

6 have e-mail I can always e-mail, but I also

7 wanted to see if I can get your telephone number.

8 JUDGE MORAN: Sure. (312)793-2863. Let's

9 see. This is October 16th.

10 Mr. Huttenhower, when do you think you

11 will be able to provide all the answers to

12 Mr. Shah's --

13 MR. HUTTENHOWER: I should be able -- with

14 regard to the material he requested last week, I

15 should be able to provide what we have by

16 tomorrow.

17 JUDGE MORAN: Okay. And then you'll be

18 up-to-date on your end?

19 MR. HUTTENHOWER: Yes.

20 JUDGE MORAN: Is that it?

21 MR. HUTTENHOWER: Yes.

22 JUDGE MORAN: So you will have it out by the

1 17th. Okay. I'm going to change my mind about
2 the seven-day rule here and I'm going to give you
3 until -- I'm going to give you until the 27th,
4 Mr. Shah --

5 MR. RAJESH SHAH: Okay.

6 JUDGE MORAN: -- to submit any follow-up
7 discovery questions --

8 MR. RAJESH SHAH: Okay.

9 JUDGE MORAN: -- to Mr. Huttenhower, okay?

10 MR. RAJESH SHAH: October 27th, so it's ten
11 days. See -- I mean, of course --

12 JUDGE MORAN: Will that work?

13 MR. RAJESH SHAH: I mean, if I can get a
14 little more time, because I do not have too much
15 resources. I mean, I'm the only one who's doing
16 everything.

17 JUDGE MORAN: Do you have an objection?

18 MR. HUTTENHOWER: No.

19 JUDGE MORAN: All right. I'll give you until
20 the 31st. Will that work?

21 MR. RAJESH SHAH: Yeah, that will be fine.
22 I'll try my best to be -- reply before

1 October 27, but, still it's myself who has to do
2 all this --

3 JUDGE MORAN: Sure. Sure.

4 MR. RAJESH SHAH: I don't have the resources
5 or luxury that I can...

6 JUDGE MORAN: And then would you want extra
7 time for any follow-up based on the new...?

8 MR. HUTTENHOWER: I guess I should reserve the
9 right --

10 JUDGE MORAN: Some time.

11 MR. HUTTENHOWER: -- I tried in my initial
12 request to --

13 JUDGE MORAN: I mean, you can always waive it
14 or not do it. So, Mr. Shah will submit any
15 follow-up discovery requests by the 31st. And
16 when do you think you can -- well, you probably
17 can't tell right now because you don't know how
18 complex they are, so let me give you two weeks,
19 is that reasonable, do you think?

20 MR. HUTTENHOWER: That's fine.

21 JUDGE MORAN: I mean, you know your schedule
22 and everything better than I do.

1 MR. HUTTENHOWER: That should be fine.

2 JUDGE MORAN: Okay. So November 14th, SBC
3 will file -- not file, submit its responses to
4 the follow-up discovery request. And then how
5 much time would you need to decide whether you
6 need any follow-up.

7 MR. HUTTENHOWER: Did you -- I'm sorry, I may
8 have missed it. Did you select the date -- is
9 the 31st also when Mr. Shah is supposed to
10 respond to my outstanding request?

11 JUDGE MORAN: Oh, yeah, let's start that
12 track. How many discovery requests have you not
13 responded to at this point? Do you have any
14 idea?

15 MR. RAJESH SHAH: He -- well, only one letter.
16 So, I mean, of course, that letter had a few
17 questions. But it's only one letter.

18 JUDGE MORAN: Oh, okay.

19 MR. RAJESH SHAH: And then on second letter,
20 he suggested me to file a motion, but -- since,
21 now -- I mean, we are talking -- I'll be happy to
22 provide a response to that, even if it's not in

1 chronological order.

2 JUDGE MORAN: Fine. When do you think you can

3 do that by? Can you do that also by

4 October 31st?

5 MR. RAJESH SHAH: I believe so, yeah. Yeah.

6 JUDGE MORAN: Okay. All right. Then

7 October 31 you are going to respond to SBC's

8 outstanding requests.

9 MR. HUTTENHOWER: Well, then, I guess, would

10 it be acceptable for me, not only on the 14th to

11 respond to any additional questions he asks but

12 also to send out anything else, if I have it?

13 JUDGE MORAN: Send out any new --

14 MR. HUTTENHOWER: Additional requests if I

15 need anything?

16 JUDGE MORAN: Yeah. Okay. Okay. And then on

17 the 14th -- how about on the 25th -- November

18 25th, Mr. Shah, you will file responses -- not

19 file, excuse me, submit, distribute, any other

20 word, because these are not official filings.

21 MR. RAJESH SHAH: Reply, right.

22 JUDGE MORAN: Submit or distribute any and all

1 responses to SBC's additional discovery.

2 MR. RAJESH SHAH: And that's November what?

3 JUDGE MORAN: November 25th. And I'm doing

4 that because I want to free up the holiday for

5 everybody as much as I can.

6 MR. RAJESH SHAH: The 24th is my birthday,

7 October. So -- and I have my mother visiting

8 today, so I will be tied up a little bit.

9 JUDGE MORAN: Oh, how nice.

10 MR. HUTTENHOWER: This is November 25th. She

11 said.

12 MR. RAJESH SHAH: That's Christmastime she is

13 talking about.

14 JUDGE MORAN: It's also Boxing Day. Okay.

15 When do the parties, then, think about going to a

16 hearing? Do you want to go in December? Do you

17 want to skip December and go into January?

18 MR. HUTTENHOWER: I have a brief due on the

19 8th of December but after that, you know, up to

20 the week of Christmas I could do it if it's

21 convenient for Mr. Shah and for you.

22 JUDGE MORAN: Okay. How is your December,

1 Mr. Shah?

2 MR. RAJESH SHAH: I do not have any scheduled
3 plans as far as I know.

4 JUDGE MORAN: Okay. Well, November 25th is
5 the last semi-formal discovery submission --

6 MR. RAJESH SHAH: Reply?

7 JUDGE MORAN: Right. -- and, of course, if
8 you have one or two questions as follow-up, I
9 certainly won't object. You both are intelligent
10 men and can work out something that's reasonable.

11 MR. RAJESH SHAH: Sure.

12 JUDGE MORAN: And I don't like to set a really
13 strict schedule in these kind of cases. I want a
14 guideline so that you are both trained to, you
15 know, keep on the case; but I don't like to set
16 up any unnecessary barriers knowing that you are
17 here pro se and that, you know, you don't have
18 the training to, you know, sometimes come up with
19 everything in the firsthand.

20 How about if we set a hearing in this
21 case for December 16th?

22 MR. HUTTENHOWER: Okay.

1 MR. RAJESH SHAH: Okay.

2 JUDGE MORAN: What do you think,

3 Mr. Huttenhower, is that doable?

4 MR. HUTTENHOWER: That should be fine.

5 JUDGE MORAN: And you, Mr. Shah?

6 MR. RAJESH SHAH: Yeah, that's acceptable. I

7 mean, I do not see any conflict.

8 JUDGE MORAN: Okay. Like I said, if there is,

9 then, the two of you get together, have a

10 conference call or something and call me and let

11 me know or send me something in writing.

12 MR. HUTTENHOWER: Okay. Would we start at

13 10:00, then?

14 JUDGE MORAN: Yeah. That sounds good. Is

15 that good for you, Mr. Shah?

16 MR. RAJESH SHAH: Yes.

17 JUDGE MORAN: So, as I have it here, we've

18 agreed that on October 31st Mr. Shah will submit

19 follow-up discovery repeat requests to those

20 already out. He will also be responding to SBC's

21 outstanding discovery requests.

22 And on November 14th, SBC will submit

1 it's responses to the follow-up discovery
2 requests.

3 SBC will also be submitting any
4 additional requests on November 25th.

5 Mr. Shah will submit or distribute any
6 and all responses to SBC's requests and I built
7 in a little flexibility in case you each have
8 some questions that need to go.

9 And with that, we will continue this
10 matter until December 16th at 10:00 a.m. and that
11 would be for the evidentiary hearing pending any
12 motions or filings prior to that time.

13 Is there anything else that we need to
14 discuss here today?

15 MR. RAJESH SHAH: At this stage, no. I mean,
16 I'll reply to his response -- I mean, requests.

17 JUDGE MORAN: Right. And I forgot to mention
18 it, although it's certainly in the record, that
19 Mr. Huttenhower has some responses today and will
20 have the rest tomorrow.

21 MR. HUTTENHOWER: I have nothing further.

22 JUDGE MORAN: Is that -- so this is all

1 agreeable to everybody?

2 MR. RAJESH SHAH: Yes. It's fair.

3 MR. HUTTENHOWER: Yes.

4 JUDGE MORAN: Great. Thank you and with that,

5 this matter is officially continued to

6 December 16th for evidentiary hearing at the hour

7 of 10:00 a.m. in Chicago.

8 (Whereupon, the hearing in the

9 above-entitled matter was

10 continued until December 16,

11 2003, at 10:00 a.m.)

12

13

14

15

16

17

18

19

20

21

22